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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 200427-0121]

RIN 0648-BJ39

Pacific Halibut Fisheries; Catch Sharing Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule implements the Pacific Halibut Catch Sharing Plan for the International Pacific Halibut Commission's regulatory Area 2A off Washington, Oregon, and California. In addition, this final rule implements management measures that are not implemented through the International Pacific Halibut Commission. These measures include the recreational fishery seasons and allocations, and other management measures for Area 2A, including some season dates that are different than proposed. This rule also announces that it may be necessary to further modify the opening dates or other fishing days for some subareas shortly after the publication of this final rule, in response to changes in state measures related to the spread of COVID-19. These actions are intended to conserve Pacific halibut and provide angler opportunity where available.

DATES: This rule is effective on [insert *date of posting for public inspection by the Office of the FEDERAL REGISTER*].

ADDRESSES: Additional information regarding this action may be obtained by contacting the Sustainable Fisheries Division, NMFS West Coast Region, 1201 NE Lloyd Boulevard Suite 1100, Portland, OR, 97232. For information regarding all halibut fisheries and general regulations not contained in this rule, contact the International Pacific Halibut Commission, 2320 W. Commodore Way Suite 300, Seattle, WA 98199-1287. Electronic copies of the Regulatory Impact Review (RIR) and Final Regulatory Flexibility Analysis (FRFA) prepared for this action may be obtained by contacting Kathryn Blair, phone: 503-231-6858, email: *kathryn.blair@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Kathryn Blair, phone: 503-231-6858, fax: 503-231-6893, or e-mail: *kathryn.blair@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Northern Pacific Halibut Act (Halibut Act) of 1982 gives the Secretary of Commerce (Secretary) responsibility for implementing the provisions of the Halibut Convention between the United States and Canada. 16 U.S.C. 773-773k. The Halibut Act requires that the Secretary adopt regulations to carry out the purposes and objectives of the Halibut Convention and Halibut Act 16 U.S.C. 773(c). The Halibut Act also authorizes the regional fishery management councils to develop regulations in addition to, but not in conflict with, regulations of the International Pacific Halibut Commission (IPHC) to govern the Pacific halibut catch in their corresponding U.S. Convention waters (16 U.S.C. 773c(c)).

At its annual meeting in February 2020, the IPHC recommended an Area 2A catch limit of 1,500,000 pounds (lb) (680.4 metric tons (mt)) for 2020. This catch limit is

derived from the total constant exploitation yield (TCEY) of 1,650,000 lb (748.4 mt), which includes commercial discards and bycatch estimates calculated using a formula developed by the IPHC. The table below shows the fishery and subarea allocations resulting from the framework described in the 2020 Area 2A Catch Sharing Plan.

Table 1 -- Area 2A Catch Limit and Fishery Subarea Allocations for 2020

	Pounds	Metric Tons
Area 2A TCEY	1,650,000	748.4
Area 2A Catch Limit	1,500,000	680.4
Tribal commercial fishery	492,800	223.5
Incidental commercial catch during sablefish fishery	70,000	31.8
Non-tribal directed commercial fishery	254,426	115.4
Incidental commercial catch during salmon troll fishery	44,899	20.4
Washington recreational fishery - Puget Sound	77,550	35.2
Washington recreational fishery - North Coast	128,187	58.1
Washington recreational fishery - South Coast	62,896	28.5
Columbia River recreational fishery	18,450	8.4
Oregon recreational fishery - Central Oregon	271,592	123.2
Oregon recreational fishery - Southern Oregon	8,000	3.6
California recreational fishery	39,000	17.7

The Area 2A catch limit, tribal commercial fishery allocation, and commercial fishery allocations are adopted by the IPHC and were published in the **Federal Register** on March 13, 2020 (85 FR 14586) after acceptance by the Secretary of State in accordance with 50 CFR 300.62.

Since 1988, NMFS has implemented annual Catch Sharing Plans that allocate the IPHC regulatory Area 2A Pacific halibut catch limit between treaty Indian and non-Indian harvesters, and among non-Indian commercial and recreational (sport) fisheries. The Pacific Fishery Management Council (Council) develops Catch Sharing Plans in accordance with the Halibut Act. In 1995, the Council recommended, and NMFS

approved and implemented a long-term Area 2A Catch Sharing Plan (60 FR 14651; March 20, 1995). NMFS has been implementing adjustments to the Area 2A Catch Sharing Plan based on Council recommendations each year to address the changing needs of these fisheries. While the full Catch Sharing Plan is not published in the **Federal Register**, it is made available on the Council and NMFS websites.

This rule adopts the Council's recommended changes to the Catch Sharing Plan for IPHC regulatory Area 2A, which affect only the recreational fishery. The Catch Sharing Plan changes provide more opportunities for anglers in Washington and Oregon by remaining open more days per week, opening up to one month earlier, and transferring quota to the Columbia River from the Southern Oregon subarea in years with a high catch limit. Details of these changes are described in the proposed rule and are not repeated here.

In addition, this rule implements the recreational Pacific halibut fishery management measures, such as season dates and some catch limits, set in NMFS regulations and described in the proposed rule (85 FR 6883; February 6, 2020). These management measures are detailed in the Council's recommended Catch Sharing Plan and were developed through the Council's public process. This rule implements most of the 2020 dates for the recreational fisheries consistent with the Council's recommendations as well as recommendations from Oregon, Washington, and California that were received either during the Council process or during the comment period for the proposed rule. However, this rule implements season dates different from the proposed rule for the State of Washington, in response to measures enacted due to the COVID-19 pandemic.

Regulatory Changes

This rule also revises some provisions of the regulations at 50 CFR part 300, subpart E, for clarity and consistency. Regulations at 50 CFR 300.61 and 300.64 describe the usual and accustomed (U&A) fishing areas of Indian tribes with treaty fishing rights to Pacific halibut. NMFS is revising the definition of Subarea 2A-1 at 50 CFR 300.61 to a more general description. At 50 CFR 300.64, NMFS is updating the table to reflect a March 5, 2018, court decision revising the western boundaries of the U&A fishing areas for the Quileute Indian Tribe and the Quinault Indian Nation. *United States v. Washington*, 2:09-sp-00001-RSM, (W.D. Wash. March 5, 2018) (Order Regarding Boundaries of Quinault and Quileute U&As). The boundaries of other U&A fishing areas are not affected by this rulemaking. At 50 CFR 300.63(d), NMFS is removing cross-references to specific section numbers in IPHC regulations to prevent inconsistency.

Incidental Halibut Retention in the Sablefish Primary Fishery North of Pt. Chehalis, WA

The 2020 Catch Sharing Plan allows incidental halibut retention in the sablefish primary fishery north of Pt. Chehalis, WA, when the Washington recreational catch limit is 214,110 lb (101.7 mt) or greater, provided that a minimum of 10,000 lb (4.5 mt) is available. The Area 2A catch limit for 2020 is great enough to allow 70,000 lb (31.8 mt) for incidental halibut retention in the sablefish primary fishery, which is the maximum amount that may be allocated to the sablefish fishery when the catch limit is 1,500,000 lb (680.4 mt) or more. This limit was adopted as part of the rule published March 13, 2020 (85 FR 14586), and as shown in Table 1. Incidental halibut landing restrictions in the

sablefish fishery are recommended by the Council and implemented in the groundfish regulations at 50 CFR 660.231(b)(3)(iv).

2020 Recreational Fishery Management Measures

The annual domestic management measures are published each year through a final rule under NMFS' authority to implement the Halibut Convention (50 CFR 300.62). For the 2020 fishing season, the final rule for the commercial fisheries, IPHC regulations, and catch limits was published on March 13, 2020 (85 FR 14586). The section numbers below correspond to IPHC regulation sections in the March 13, 2020, final rule.

NMFS is adopting recreational fishery management measures, including season dates that are necessary to implement the Council's recommended Catch Sharing Plan in 2020. The Catch Sharing Plan includes a framework for setting fishing open days by subarea, and each state submits final recommended season dates annually. While this rule implements most season dates as recommended by the Council, some season dates for the State of Washington are different from the proposed rule, in response to measures enacted due to the COVID-19 pandemic. With the exception of some Washington season dates, the recreational fishing regulations for Area 2A are consistent with the measures adopted by the IPHC and approved by the Secretary of State, but were developed in part by the Council and promulgated by the United States under the Halibut Act.

At the time of the publication of this rule, in response to the spread of COVID-19, there are certain measures in place in the State of Washington that would inhibit the accurate monitoring of the quota allocations implemented through this action. Accurate monitoring and catch accounting of the overall Area 2A allocation, as well subarea allocations, is important for the conservation and management of Pacific halibut and

maintaining the intended fishing opportunity provided by this rule. Specifically, State port samplers are currently not being deployed to collect catch information on recreational landings, and data collected by these samplers is necessary to track the state and subarea catch allocations and prevent overages. At the time of this publication, Washington has announced that it anticipates keeping this restriction in place through May 4, 2020. Based on this information, NMFS has determined that it is necessary to implement an opening season date in Washington State subareas such that the season will start on the next proposed open day after May 4, 2020. For Washington subareas, the first open date is May 7, 2020. The largest difference in these dates compared to what was proposed is for the Puget Sound subarea. Initially, the Puget Sound subarea was proposed to open April 16, 2020, which would have been two weeks earlier than the May 2, 2019, opening. In 2018, Washington fisheries opened statewide May 11, therefore this change does not result in a major difference compared with previous years' opening dates.

State measures being put in place as a result of the COVID-19 pandemic are fluid, and it may be necessary to further modify the opening dates or respond to a decrease in catch monitoring in other subareas within Washington State, or California and Oregon shortly after the publication of this final rule. Any such change will be announced on the NMFS hotline at (206) 526-6667 or 800-662-9825. NMFS is closely monitoring this situation and coordinating with all three of the West Coast state fish and wildlife agencies, so that we can meet conservation needs while also providing fishing opportunity.

This rule provides specific regulations, as referred to in paragraph (7) of the 2020 IPHC regulations under the heading, “Recreational (Sport) Fishing for Pacific Halibut—IPHC Regulatory Area 2A”:

(8) The sport fishing subareas, subquotas, fishing dates, and daily bag limits are as follows, except as modified by an inseason action consistent with 50 CFR 300.63(c). All sport fishing in Area 2A is managed on a “port of landing” basis, whereby any halibut landed into a port counts toward the quota for the area in which that port is located, and the regulations governing the area of landing apply, regardless of the specific area of catch.

(a) The quota for the area in Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line extending from 48°17.30' N. lat., 124°23.70' W. long. north to 48°24.10' N. lat., 124°23.70' W. long., is 77,550 pounds (35.18 mt).

(i) The fishing seasons are:

(A) For the area in Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line at approximately 123°49.60' W. long., fishing is open May 7-9, 14-16, 22-24, 28-30; June 4-6, 11-13, 18-20, and 25-27, or until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. Any closure will be announced on the NMFS hotline at (206) 526-6667 or 800-662-9825.

(B) For the area in U.S. waters in the Strait of Juan de Fuca, approximately between 124°23.70' W. long. and 123°49.60' W. long., fishing is open May 7, 9, 14, 16, 22, 23, 24, 28-30; June 4-6, 11-13, 18-20, and 25-27, or until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. Any closure will be announced on the NMFS hotline at (206) 526-6667 or 800-662-9825.

(ii) The daily bag limit is one halibut of any size per day per person.

(b) The quota for landings into ports in the area off the north Washington coast, west of the line described in paragraph (2)(a) of section 26 and north of the Queets River (47°31.70' N. lat.) (North Coast subarea), is 128,187 pounds (58.14 mt).

(i) The fishing seasons are:

(A) Fishing is open May 7, 9, 14, 16, 22, 24, 28, 30; June 4, 6, 11, 13, 18, 20, 25, and 27, or until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. Any closure will be announced on the NMFS hotline at (206) 526-6667 or 800-662-9825.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Recreational fishing for groundfish and halibut is prohibited within the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA). It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the North Coast Recreational YRCA. A vessel fishing with recreational gear in the North Coast Recreational YRCA may not be in possession of any halibut. Recreational vessels may transit through the North Coast Recreational YRCA with or without halibut on board. The North Coast Recreational YRCA is a C-shaped area off the northern Washington coast intended to protect yelloweye rockfish. The North Coast Recreational YRCA is defined in groundfish regulations at 50 CFR 660.70(b).

(c) The quota for landings into ports in the area between the Queets River, WA (47°31.70' N. lat.), and Leadbetter Point, WA (46°38.17' N. lat.)(South Coast subarea), is 62,896 pounds (28.53 mt).

(i) This subarea is divided between the all-depth fishery (the Washington South coast primary fishery), and the incidental nearshore fishery in the area from 47°31.70' N. lat. south to 46°58.00' N. lat. and east of a boundary line approximating the 30-fm (55-m) depth contour. This area is defined by straight lines connecting all of the following points in the order stated as described by the following coordinates (the Washington South coast, northern nearshore area):

- (1) 47°31.70' N. lat, 124°37.03' W. long;
- (2) 47°25.67' N. lat, 124°34.79' W. long;
- (3) 47°12.82' N. lat, 124°29.12' W. long;
- (4) 46°58.00' N. lat, 124°24.24' W. long.

The primary fishery season dates are May 7, 10, 14, 17, 21; June 18, 21, 25, and 28, or until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. Any closure will be announced on the NMFS hotline at (206) 526-6667 or 800-662-9825. If sufficient quota remains, the fishing season in the nearshore area commences the Saturday subsequent to the closure of the primary fishery and continues 7 days per week until 62,896 pounds (28.53 mt) is projected to be taken by the two fisheries combined and the fishery is closed by the Commission or September 30, whichever is earlier. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen the northern nearshore area for another fishing day, then any remaining quota may be transferred inseason to another Washington coastal subarea by NMFS.

- (ii) The daily bag limit is one halibut of any size per day per person.

(iii) Seaward of the boundary line approximating the 30-fm (55-m) depth contour and during days open to the primary fishery, lingcod may be taken, retained and possessed when allowed by groundfish regulations at 50 CFR 660.360.

(iv) Recreational fishing for groundfish and halibut is prohibited within the South Coast Recreational YRCA and Westport Offshore YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the South Coast Recreational YRCA and Westport Offshore YRCA. A vessel fishing in the South Coast Recreational YRCA and/or Westport Offshore YRCA may not be in possession of any halibut. Recreational vessels may transit through the South Coast Recreational YRCA and Westport Offshore YRCA with or without halibut on board. The South Coast Recreational YRCA and Westport Offshore YRCA are areas off the southern Washington coast established to protect yelloweye rockfish. The South Coast Recreational YRCA is defined at 50 CFR 660.70(e). The Westport Offshore YRCA is defined at 50 CFR 660.70(f).

(d) The quota for landings into ports in the area between Leadbetter Point, WA (46°38.17' N. lat.), and Cape Falcon, OR (45°46.00' N. lat.)(Columbia River subarea), is 18,450 pounds (8.37 mt).

(i) This subarea is divided into an all-depth fishery and a nearshore fishery. The nearshore fishery is allocated 500 lb (0.23 mt) of the subarea allocation. The nearshore fishery extends from Leadbetter Point (46°38.17' N. lat., 124°15.88' W. long.) to the Columbia River (46°16.00' N. lat., 124°15.88' W. long.) by connecting the following coordinates in Washington: 46°38.17' N. lat., 124°15.88' W. long. 46°16.00' N. lat., 124°15.88' W. long. and connecting to the boundary line approximating the 40-fm (73-m)

depth contour in Oregon. The nearshore fishery opens May 4, and continues on Monday, Tuesday, and Wednesday each week until the nearshore allocation is taken, or September 30, whichever is earlier. The all-depth fishing season is open April 30; May 3, 7, 10, 14, 17, 21, 28, 31; June 4, 7, 11, 14, 18, 21, 25, and 28, or until there is not sufficient quota for another full day of fishing and the area is closed by the Commission, or September 30, whichever is earlier. Any closure will be announced on the NMFS hotline at (206) 526-6667 or 800-662-9825. Subsequent to this closure, if there is insufficient quota remaining in the Columbia River subarea for another fishing day, then any remaining quota may be transferred inseason to another Washington and/or Oregon subarea by NMFS. Any remaining quota would be transferred to each state in proportion to its contribution.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Pacific Coast groundfish may not be taken and retained, possessed or landed when halibut are on board the vessel, except sablefish, Pacific cod, flatfish species, and lingcod caught north of the Washington-Oregon border during the recreational halibut fishery, when allowed by Pacific Coast groundfish regulations, during days open to the all-depth fishery only.

(iv) Taking, retaining, possessing, or landing halibut on groundfish trips is only allowed in the nearshore area on days not open to all-depth Pacific halibut fisheries.

(e) The quota for landings into ports in the area off Oregon between Cape Falcon (45°46.00' N. lat.) and Humbug Mountain (42°40.50' N. lat.) (Oregon Central Coast subarea), is 271,592 pounds (123.19 mt).

(i) The fishing seasons are:

(A) The first season (the “inside 40-fm” fishery) commences May 1, and continues 7 days a week, in the area shoreward of a boundary line approximating the 40-fm (73-m) depth contour, or until the sub-quota for the central Oregon “inside 40-fm” fishery of 32,591 pounds (14.8 mt), or any inseason revised subquota, is estimated to have been taken and the season is closed by the Commission, or October 31, whichever is earlier. The boundary line approximating the 40-fm (73-m) depth contour between 45°46.00' N. lat. and 42°40.50' N. lat. is defined at § 660.71(o).

(B) The second season (spring season), which is for the “all-depth” fishery, is open May 14, 15, 16; 21, 22, 23; 28, 29, 30; June 11, 12, 13; 18, 19, 20; and July 9, 10, 11. The allocation to the all-depth fishery is 171,103 pounds (77.6 mt). If sufficient unharvested quota remains for additional fishing days, the season will re-open July 23, 24, 25. Notice of the re-opening will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825.

(C) The third season (summer season), which is for the “all-depth” fishery, will be August 6, 7, 8; 20, 21, 22; September 3, 4, 5; 17, 18, 19; October 1, 2, 3; 15, 16, 17; 29, 30, 31; and will continue until the combined spring season and summer season quotas in the area between Cape Falcon and Humbug Mountain, Oregon, are estimated to have been taken and the area is closed by the Commission. NMFS will announce on the NMFS hotline in July whether the fishery will re-open for the summer season in August. Additional fishing days may be opened if sufficient quota remains after the last day of the first scheduled open period. If, after this date, an amount greater than or equal to 60,000 lb (27.2 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, the fishery may re-open every Thursday, Friday and Saturday, beginning August 6, 7, and 8, and

ending when there is insufficient quota remaining, whichever is earlier. If after September 8, an amount greater than or equal to 30,000 lb (13.6 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, and the fishery is not already open every Thursday, Friday and Saturday, the fishery may re-open every Thursday, Friday and Saturday, beginning September 10, 11, and 12, and ending October 31. After September 8, the bag limit may be increased to two fish of any size per person, per day. NMFS will announce on the NMFS hotline whether the summer all-depth fishery will be open on such additional fishing days, what days the fishery will be open and what the bag limit is.

(ii) The daily bag limit is one halibut of any size per day per person, unless otherwise specified. NMFS will announce on the NMFS hotline any bag limit changes.

(iii) During days open to all-depth halibut fishing when the groundfish fishery is restricted by depth, no groundfish may be taken and retained, possessed or landed, when halibut are on board the vessel, except sablefish, Pacific cod, and flatfish species, when allowed by groundfish regulations, if halibut are onboard the vessel. During days open to all-depth halibut fishing when the groundfish fishery is open to all depths, any groundfish species permitted under the groundfish regulations may be retained, possessed or landed if halibut are on board the vessel. During days open to nearshore halibut fishing, flatfish species may be taken and retained seaward of the seasonal groundfish depths restrictions, if halibut are on board the vessel.

(iv) When the all-depth halibut fishery is closed and halibut fishing is permitted only shoreward of a boundary line approximating the 40-fm (73-m) depth contour,

halibut possession and retention by vessels operating seaward of a boundary line approximating the 40-fm (73-m) depth contour is prohibited.

(v) Recreational fishing for groundfish and halibut is prohibited within the Stonewall Bank YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the Stonewall Bank YRCA. A vessel fishing in the Stonewall Bank YRCA may not possess any halibut. Recreational vessels may transit through the Stonewall Bank YRCA with or without halibut on board. The Stonewall Bank YRCA is an area off central Oregon, near Stonewall Bank, intended to protect yelloweye rockfish. The Stonewall Bank YRCA is defined at § 660.70(g).

(f) The quota for landings into ports in the area south of Humbug Mountain, OR (42° 40.50' N. lat.) to the Oregon/California Border (42° 00.00' N. lat.)(Southern Oregon subarea) is 8,000 pounds (3.63 mt).

(i) The fishing season commences on May 1, and continues 7 days per week until the subquota is taken, or October 31, whichever is earlier.

(ii) The daily bag limit is one halibut per person with no size limit.

(iii) No Pacific Coast groundfish may be taken and retained, possessed or landed, except sablefish, Pacific cod, and flatfish species, in areas closed to groundfish, if halibut are on board the vessel.

(g) The quota for landings into ports south of the Oregon/California Border (42°00.00' N. lat.) and along the California coast is 39,000 pounds (17.69 mt).

(i) The fishing season will be open May 1 through October 31, or until the subarea quota is estimated to have been taken and the season is closed by the Commission,

whichever is earlier. NMFS will announce any closure by the Commission on the NMFS hotline (206) 526-6667 or (800) 662-9825.

(ii) The daily bag limit is one halibut of any size per day per person.

Comments and Responses

NMFS accepted public comments on the Council's recommended modifications to the 2020 Area 2A Catch Sharing Plan and the resulting proposed domestic fishing regulations through March 9, 2020. NMFS received two comments from State agencies—the Oregon Department of Fish and Wildlife (ODFW) and the California Department of Fish and Wildlife (CDFW), and one comment from a stakeholder.

Comment 1: ODFW submitted a comment recommending final recreational fishing season dates for the 2020 season for the Central Oregon Coast subarea. ODFW hosted a public meeting and an online survey following the IPHC annual meeting. Based on stakeholder input, past effort, and tides, ODFW recommended season dates for the spring and summer Central Coast fisheries. For spring, fixed open dates on May 14, 15, 16; May 21, 22, 23; May 28, 29, 30; June 11, 12, 13; June 18, 19, 20; and July 9, 10, 11. ODFW recommended spring fishery backup dates on July 23, 24, 25. ODFW recommended summer fishery dates on August 6, 7, 8; August 20, 21, 22; September 3, 4, 5; September 17, 18, 19; October 1, 2, 3; October 15, 16, 17; and October 29, 30, 31; or until the total 2020 all-depth catch limit for the subarea is taken.

Response: NMFS concurs that the ODFW-recommended season dates are appropriate. There are a few differences between the spring season dates NMFS published in the proposed rule and those recommended by ODFW. However, ODFW surveyed their stakeholders after the IPHC adopted the catch limit for 2020 and

considered stakeholder input, past effort and tides in making their recommendation. NMFS has updated the recreational fishery season dates off of Oregon to those recommended by ODFW in this final rule.

Comment 2: CDFW submitted a comment concurring with the season dates NMFS published in the proposed rule for the 2020 season. CDFW hosted an online survey following the IPHC annual meeting. Based on public comments received on Pacific halibut fisheries in California and fishing performance in recent years, CDFW recommended season dates of May 1-October 31, or until quota has been attained, whichever comes first.

Response: NMFS concurs that these season dates are appropriate. The catch limit for 2020 is the same as 2019, and the California catch limit was not fully attained last year with the same season dates. NMFS affirms the recreational fishery season dates off of California in this final rule.

Comment 3: NMFS received one public comment in support of approving the 2020 Pacific Halibut Catch Sharing Plan. This comment also suggested further review of incidental catch and fostering input from diverse groups of stakeholders.

Response: NMFS concurs that approving the 2020 Pacific Halibut Catch Sharing Plan is appropriate. With regards to the commenters' concern regarding the incidental catch distribution and stakeholder opinion, although NMFS believes in the accuracy of the incidental catch and has made various attempts, including taking public comment on the proposed rule, to gain insight on the public's needs, we will continue to review ways to ensure these two areas are as accurate as possible in the future.

Changes from the Proposed Rule

As described in the response to Comment 1 above, NMFS changed season dates off of Oregon in this final rule.

NMFS is also implementing season dates in the Washington subareas such that the season will start on the next proposed open day after May 4, 2020. For Washington fisheries, the first open date is May 7, 2020. The Puget Sound subarea dates are the most different than those proposed. An opening date of April 16, 2020, was originally proposed and would have resulted in the Puget Sound fishery opening two weeks earlier than previous years, in an attempt to provide more angler opportunity in an area that had low attainment in 2019. The other Washington subareas will have two fewer fishing days than proposed and would open around the same time as previous years. Therefore this is not a significant change from previous years' opening dates.

The decision to modify the opening season date for Washington subareas is a result of the various measures currently in place associated with Washington State's "Stay Home, Stay Healthy" order. Specifically, State port samplers are currently not being deployed to collect catch information on recreational landings, and data collected by these samplers is necessary to track the state and subarea catch allocations and prevent overages. At this time, it is unclear when port sampling will resume. WDFW has also closed all State recreational fisheries through May 4, 2020. Therefore, unless that order is revised, it is unlikely that samplers will begin working before that date. The situation due to the COVID-19 pandemic remains fluid. While it appears there will not be port sampling prior to May 5, 2020, port sampling is carried out by the State and may be revised quickly. It may therefore be necessary to further modify the opening dates or

other fishing days for some subareas shortly after the publication of this final rule in response to changes in State measures related to the spread of COVID-19.

Classification

Regulations governing the U.S. fisheries for Pacific halibut are developed by the International Pacific Halibut Commission (IPHC), the Pacific Fishery Management Council, the North Pacific Fishery Management Council, and the Secretary of Commerce. Section 5 of the Halibut Act (16 U.S.C. 773c) allows the Regional Council having authority for a particular geographical area to develop regulations governing the allocation and catch of halibut in U.S. Convention waters as long as those regulations do not conflict with IPHC regulations. This action is consistent with the Council's authority to allocate halibut catches among fishery participants in the waters in and off Washington, Oregon, and California.

This final rule has been determined to be not significant for purposes of Executive Order 12866. This final rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

Pursuant to 5 U.S.C. 553(d)(1), a thirty-day delay in effective date is not applicable because these final regulations for the 2020 Pacific halibut fishing season relieve a restriction. The 2020 Catch Sharing Plan provides the framework for the annual management measures and subarea allocations based on the 2020 Area 2A catch limit for Pacific halibut. These allocations are based on the best available new information on the population status of Pacific halibut, determined at the annual meeting of the IPHC held February 3-7, 2020. Additionally, the Washington Puget Sound subarea was originally scheduled to be open April 16, 2020, two weeks earlier than in 2019, to allow more

opportunity for fishing and this rule implements subarea allocations for that fishery. Due to COVID-19, Washington has closed its recreational fisheries and paused its port sampling and catch accounting program. Without catch data, there is no way to track state and subarea landings against the allocation to prevent overages. NMFS is responding to the Washington recreational fishing actions by revising season dates in the Washington subareas such that the season will start on the next proposed open day after May 4, 2020. The season date being implemented in this action is similar to season start dates in previous years, when Washington had season openers on May 2, 2019, and May 11, 2018. The recreational season for the Columbia River subarea, beginning on the soonest possible scheduled date after April 30, 2020, is scheduled to take place as proposed. A delay in the effectiveness of this rule for a full thirty days would result in delayed openings for these fisheries rather than on the dates the affected public are expecting.

Additionally, there is good cause under 5 U.S.C. 553(d)(3) to ensure these regulations are effective immediately upon publication. The Council's 2020 Catch Sharing Plan approved in this rule includes changes that respond to the needs of the fisheries in Washington and Oregon, including fisheries that begin on the soonest possible scheduled date after April 30, 2020. In 2019, the recreational fisheries in Washington, Oregon, and California did not achieve their full quotas as in previous years. The Council recommended changes to the Catch Sharing Plan to allow fisheries in Washington and Oregon to open up earlier and remain open more days per week, as well as transfer quota from Southern Oregon to the Columbia River subarea in years with a high catch limit. Delaying the effective date of this rule beyond [INSERT DATE OF POSTING FOR PUBLIC INSPECTION BY THE OFFICE OF THE FEDERAL

REGISTER], would be contrary to the public interest because, without these changes, fishing opportunity is lost, potentially causing economic harm to communities at sport fishing ports. Washington season dates published in the proposed rule were revised in the final rule from mid-April to early May. The Columbia River subarea is still scheduled to be open on the soonest possible scheduled date after April 30, and Oregon and California fisheries are still scheduled to be open May 1. Additionally, the season dates in this rule are specific to 2020 according to the Catch Sharing Plan framework. Without the publication of this rule, the 2019 season dates would remain in place, and would not occur on the days of the week specified in the Catch Sharing Plan.

Therefore, allowing the 2019 Catch Sharing Plan to remain in place would not respond to the needs of the fishery and would be in conflict with the Council's final recommendation for 2020. A thirty-day delay in effectiveness could cause economic harm to the associated fishing communities by reducing fishing opportunity at the start of the fishing year. As a result of the potential harm to fishing communities that could be caused by delaying the effectiveness of this final rule, NMFS finds good cause to make this rule effective upon publication in the **Federal Register**.

Final Regulatory Flexibility Analysis

A final regulatory flexibility analysis (FRFA) was prepared. The FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, and NMFS responses to those comments, and a summary of the analyses completed to support the action. A summary of the analysis follows.

A statement of the significant issues raised by the public comments in response to the IRFA, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments.

There were no issues raised about the IRFA in the public comments.

The response of the agency to any comments filed by the Chief Counsel for Advocacy in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments.

There were no comments filed by the Chief Counsel for Advocacy.

Statement of the Objectives of, and Legal Basis for, the Final Rule

The Halibut Act gives the Secretary of Commerce responsibility for implementing the provisions of the Halibut Convention between the United States and Canada. The Halibut Act requires that the Secretary adopt regulations to carry out the purposes and objectives of the Halibut Convention and Halibut Act. The Halibut Act also authorizes the regional fishery management councils to develop regulations in addition to, but not in conflict with, regulations of the IPHC to govern the Pacific halibut catch in their corresponding U.S. Convention waters. The Council's main management objective for the Pacific halibut fishery in Area 2A is to manage fisheries to remain within the catch limit for Area 2A.

A second objective is to allow the recreational (sport) fishery to target halibut in the manner that is appropriate to meet the conservation requirements for species that co-occur with Pacific halibut. A third objective is to meet the needs of fishery participants in particular fisheries and fishing areas.

A Description and, Where Feasible, Estimate of the Number of Small Entities to Which the Final Rule Applies

This action revises the recreational Pacific halibut fishery management measures, such as season dates and some catch limits that are set in NMFS regulations. This rule opens the recreational fishery with 2020 season dates and subarea allocations, impacting charter boats, anglers, and businesses relying on sport fishing across all of Area 2A. This rule also makes changes to the sport fishing sector of the Catch Sharing Plan for the halibut fishery, impacting participants in the recreational Washington and Oregon subareas. Therefore, this rule may affect some charterboat operations in Area 2A. Previous analyses determined that charterboats are small businesses (see 77 FR 5477 (February 3, 2012) and 76 FR 2876 (January 18, 2011)). Charter fishing operations are classified under NAICS code, 487210, with a corresponding Small Business Association size standard of \$7.5 million in annual receipts. No commercial fishing entities are directly affected by this rule.

In 2019, the IPHC issued 84 licenses to the charterboat fleet. NMFS estimates there are 47 licensed charterboats in Washington, and 26 in Oregon. Recent information on charterboat activity is not available, but prior analysis indicated that 60 percent of the IPHC charterboat license holders (around 50 vessels) may be affected by these regulations. Private vessels used for recreational fishing are not businesses and are therefore not subject to the RFA.

Reporting, Record-Keeping, and Other Compliance Requirements

The changes to the Catch Sharing Plan and domestic management measures do not include any new reporting or recordkeeping requirements.

Federal Rules That May Duplicate, Overlap or Conflict with the Final Rule

There are no relevant Federal rules that may duplicate, overlap, or conflict with this action.

Description and Estimate of Economic Effects on Entities, by Entity Size and Industry

The major effect of halibut management on small entities will be from the catch limit decisions made by the IPHC, a decision independent from this action. This action implements management measures including season dates and bag limits for the recreational fishery, and makes minor changes to the Catch Sharing Plan to provide increased recreational opportunities under the allocations that result from the Area 2A catch limit. The changes to the Catch Sharing Plan are considered minor, with minimal economic effects.

A Description of, and an Explanation of the Basis for, Assumptions Used

In the description of the entities affected, estimates of the amount of charterboat activity from the number of licensed vessels were based on a 2004 report by the Pacific States Marine Fisheries Commission. This report has not been updated and the number of entities is assumed to be similar.

Description of any Significant Alternatives to the Final Rule that Accomplish the Stated Objectives of Applicable Statutes and That Minimize any Significant Economic Impact of the Rule on Small Entities

The status quo alternative of not implementing management measures, such as season dates and bag limits, or revising the Catch Sharing Plan would not achieve the objectives and requirements of the Convention and Halibut Act, specifically conserving Pacific halibut and allocating quota equitably. Without establishing 2020 season dates

and subarea allocations, there would be a significant economic impact on the entire recreational sector, including charter boats. When considered with the management measures, the changes to the Catch Sharing Plan have minimal effect on the fishery and there are no other additional significant alternatives that further minimize the impact of the rule on small entities while achieving the goals and objectives of the Convention and Halibut Act. In addition, these management measures and Catch Sharing Plan changes were proposed by stakeholders to address the needs of the fisheries, and, as explained above, the changes are not expected to have a significant economic impact on a substantial number of small entities.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as “small entity compliance guides.” The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a public notice to fishery participants that also serves as a small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the West Coast Regional Office, and the guide, i.e., public notice, will be sent to all stakeholders on the email listserv for the groundfish fishery, and posted to the West Coast groundfish and halibut webpages. The guide and this final rule will be available upon request.

A copy of this analysis is available from NMFS (see **ADDRESSES**).

This rule was developed after meaningful consultation and collaboration with the tribal representative on the Council, pursuant to Executive Order 13175.

The U.S. Government formally recognizes that the 13 Washington Tribes have treaty rights to fish for Pacific halibut. In general terms, the quantification of those rights is 50 percent of the harvestable surplus of Pacific halibut available in the tribes' usual and accustomed fishing areas (described at 50 CFR 300.64). Each of the treaty tribes has the discretion to administer their fisheries and to establish their own policies to achieve program objectives. Accordingly, tribal allocations and regulations, including the changes to the Catch Sharing Plan, have been developed in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Antarctica, Canada, Exports, Fish, Fisheries, Fishing, Imports, Indians, Labeling, Marine resources, Reporting and recordkeeping requirements, Russian Federation, Transportation, Treaties, Wildlife.

Dated: April 27, 2020.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300, subpart E, is amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart E – Pacific Halibut Fisheries

1. The authority citation for part 300, subpart E, continues to read as follows:

Authority: 16 U.S.C. 773-773k.

2, In § 300.61, revise the definition of “Subarea 2A-1” to read as follows:

§ 300.61 Definitions.

* * * * *

Subarea 2A-1 includes the usual and accustomed fishing areas for Pacific Coast treaty tribes off the coast of Washington and all inland marine waters of Washington north of Point Chehalis (46°53.30' N. lat.), including Puget Sound. Boundaries of a tribe's fishing area may be revised as ordered by a Federal court.

* * * * *

3. In § 300.63, revise paragraph (d) to read as follows:

§ 300.63 Catch sharing plan and domestic management measures in area 2A.

* * * * *

(d) *Fishery Election in Area 2A.* (1) A vessel that fishes in Area 2A may participate in only one of the following three fisheries in Area 2A:

(i) The sport fishery established in the annual domestic management measures and International Pacific Halibut Commission (IPHC) regulations and defined at § 300.61;

(ii) The commercial directed fishery for halibut during the fishing period(s) established in the annual domestic management measures and IPHC regulations and/or the incidental retention of halibut during the sablefish primary fishery described at 50 CFR 660.231; or

(iii) The incidental catch fishery during the salmon troll fishery as authorized in the annual domestic management measures and IPHC regulations.

(2) No person shall fish for halibut in the sport fishery in Area 2A under the annual domestic management measures and IPHC regulations, from a vessel that has been used during the same calendar year for commercial halibut fishing in Area 2A, or that has been issued a permit for the same calendar year for the commercial halibut fishery in Area 2A.

(3) No person shall fish for halibut in the directed commercial halibut fishery during the fishing periods established in the annual domestic management measures and IPHC regulations, and/or retain halibut incidentally taken in the sablefish primary fishery in Area 2A from a vessel that has been used during the same calendar year for the incidental catch fishery during the salmon troll fishery, as authorized in the annual domestic management measures and IPHC regulations.

(4) No person shall fish for halibut in the directed commercial halibut fishery and/or retain halibut incidentally taken in the sablefish primary fishery in Area 2A from a vessel that, during the same calendar year, has been used in the sport halibut fishery in Area 2A or that is licensed for the sport charter halibut fishery in Area 2A.

(5) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under the annual domestic management measures and IPHC regulations, taken on a vessel that, during the same calendar year, has been used in the sport halibut fishery in Area 2A, or that is licensed for the sport charter halibut fishery in Area 2A.

(6) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under the annual domestic management measures and IPHC regulations, taken

on a vessel that, during the same calendar year, has been used in the directed commercial halibut fishery during the fishing periods established in the annual domestic management measures and IPHC regulations, and/or retained halibut incidentally taken in the sablefish primary fishery for Area 2A or that is licensed to participate in these commercial fisheries during the fishing periods established in the annual domestic management measures and IPHC regulations in Area 2A.

* * * * *

4. In § 300.64, revise paragraph (i) to read as follows:

§300.64 Fishing by U.S. treaty Indian tribes.

* * * * *

(i) Table 1 to this paragraph (i) sets forth the fishing areas of each of the 13 treaty Indian tribes fishing pursuant to this section. Within subarea 2A-1, boundaries of a tribe's fishing area may be revised as ordered by a Federal court.

Table 1 to Paragraph (i)

Tribe	Boundaries
HOH	The area between 47°54.30' N. lat. (Quillayute River) and 47°21.00' N. lat. (Quinault River) and east of 125°44.00' W. long.
JAMESTOWN S'KLALLAM	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in United States v. Washington, 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 626 F. Supp. 1486, to be places at which the Jamestown S'Klallam Tribe may fish under rights secured by treaties with the United States.
LOWER ELWHA S'KLALLAM	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in United States v. Washington, 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 459 F. Supp. 1049 and 1066 and 626 F. Supp. 1443, to be places at which the Lower Elwha S'Klallam Tribe may fish under rights secured by treaties with the United States.

LUMMI	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in United States v. Washington, 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 384 F. Supp. 360, as modified in Subproceeding No. 89-08 (W.D. Wash., February 13, 1990) (decision and order re: cross-motions for summary judgement), to be places at which the Lummi Tribe may fish under rights secured by treaties with the United States.
MAKAH	The area north of 48°02.25' N. lat. (Norwegian Memorial) and east of 125°44.00' W. long.
NOOKSACK	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in United States v. Washington, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 459 F. Supp. 1049, to be places at which the Nooksack Tribe may fish under rights secured by treaties with the United States.
PORT GAMBLE S'KLALLAM	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in United States v. Washington, 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 626 F. Supp. 1442, to be places at which the Port Gamble S'Klallam Tribe may fish under rights secured by treaties with the United States.
QUILEUTE	The area commencing at Cape Alava, located at 48°10'00" N. lat, 124°43'56.9" W. long.; then proceeding west approximately 40 nautical miles at that latitude to a northwestern point located at 48°10'00" N. lat, 125°44'00" W. long.; then proceeding in a southeasterly direction mirroring the coastline at a distance no farther than 40 nautical miles from the mainland Pacific coast shoreline at any line of latitude, to a southwestern point at 47°31'42" N. lat., 125°20'26" W. long.; then proceeding east along that line of latitude to the Pacific coast shoreline at 47°31'42" N. lat., 124°21'9.0" W. long.
QUINAULT	The area commencing at the Pacific coast shoreline near Destruction Island, located at 47°40'06" N. lat., 124°23'51.362" W. long.; then proceeding west approximately 30 nautical miles at that latitude to a northwestern point located at 47°40'06" N. lat., 125°08'30" W. long.; then proceeding in a southeasterly direction mirroring the coastline no farther than 30 nautical miles from the mainland Pacific coast shoreline at any line of latitude, to a southwestern point at 46°53'18" N. lat., 124°53'53" W. long.; then proceeding east along that line of latitude to the Pacific coast shoreline at 46°53'18" N. lat., 124°7'36.6" W. long.
SKOKOMISH	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and

	subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 384 F. Supp. 377, to be places at which the Skokomish Tribe may fish under rights secured by treaties with the United States.
SUQUAMISH	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 459 F. Supp. 1049, to be places at which the Suquamish Tribe may fish under rights secured by treaties with the United States.
SWINOMISH	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 459 F. Supp. 1049, to be places at which the Swinomish Tribe may fish under rights secured by treaties with the United States.
TULALIP	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 626 F. Supp. 1531-1532, to be places at which the Tulalip Tribe may fish under rights secured by treaties with the United States.

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